HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.10103 of 2001

Dated 17th day of July, 2007

Between:

I. Jeeva Hari ..
Petitioner

And

The Govt. of Andhra Pradesh,
Rep. by its Commissioner,
Prohibition & Excise, Hyderabad
and two others ..
Respondents

-
-
-

O R D E R:

This writ petition is filed to quash the Proceedings dated 22.3.2001 issued by the 2nd respondent, and consequently direct the respondents to forthwith release the petitioner's Tanker bearing Registration No.TN01 H 9077.

The petitioner asserts that he owns a Tanker bearing Registration No.TN01 H 9077 and leased it out to N.Krishna Murthy by virtue of an agreement dated 15.9.2000. While so, on 1.11.2000, the 3rd respondent-Station House Officer filed a case against S.Arul Das and G.Babu, drivers of the vehicle alleging that during inspection, 12,000 litres of rectified spirits was found in the Tanker, which has no valid permit. Now, the grievance of the petitioner-owner is that the 2nd respondent-Deputy Commissioner of Prohibition and Excise issued the Proceedings dated 22.3.2001 ordering confiscation of both the crime vehicle and the contraband to the State.

Heard the learned counsel for both the parties and perused the material placed on record.

Initially, this Court, on 22.5.2001, while ordering Rule Nisi, directed the respondents to release the crime vehicle on condition that the petitioner deposits a sum of Rs.50,000/- with the 2nd respondent and gives an undertaking not to alienate the vehicle . Thereafter, when the respondents filed vacate stay petition, the interim order was modified to the effect that the vehicle can be released on condition that the petitioner furnishes bank guarantee which is equal to the value of the vehicle as assessed by the Motor Vehicles Inspector. However, that order could not be complied with for obvious reasons. As the

petitioner failed to furnish bank guarantee it appears that the excise officials auctioned the vehicle.

In the light of the above, this Court is of the view that the writ petition has become infructuous and the same is accordingly dismissed. However, it is always left open to the petitioner to question the auction proceedings that were conducted by the excise officials, if the law permits. No costs.

_____

17.07.2007

bcj